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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,183	07/28/2003	Howard Malcolm Jemmeson	201-0390	5585

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EXAMINER

JOHNSON, VICKY A

ART UNIT PAPER NUMBER

3682

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/628,183	<b>Applicant(s)</b> JEMMESON ET AL.	
	<b>Examiner</b> Vicky A. Johnson	<b>Art Unit</b> 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) 19-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group II in the reply filed on November 30, 2005 is acknowledged.
2. Claims 19-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Claims 19-22 are withdrawn because Group II Figures 2-5 of the elected embodiment do not show a passenger compartment, an engine compartment, and a fluid pressure generating device.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-18 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 23 include the limitation "its" which renders the claim unclear, since it is not known if "its" refers to the secondary lever or the pedal lever assembly with regards to claim 1 and the primary lever and the pedal lever assembly with regards to claim 23.

In claim 12 it is unclear how the elongate apertures extend parallel to the abutment surface. For this office action it is assumed that the elongate aperture is extending perpendicular to the abutment surface.

Claim 15 is indefinite because there is no way to determine what the limitations of a "flat strip like member" would entail. For this office action it will be considered a "member".

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-18 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Thistleton et al (US 6,889,575).

Thistleton et al disclose a pedal lever assembly for a motor vehicle having a body structure defining a passenger compartment in which the pedal lever assembly is mounted, the lever assembly comprising a primary lever (1), a secondary lever (2) and a releasable latching means (13) to selectively fasten an upper end of the primary lever to the secondary lever, the primary lever being adapted at a lower end (3) for movement by an operator between a rest position (see Fig 4A) and an activated position (see Fig 4B) and the secondary lever being pivotally connected (5) at an upper end to part of the

body structure of the motor vehicle and pivotally connected (8) at a lower end to the primary lever and is adapted for connection to a device to be operated by the pedal lever assembly at a position between its upper and lower ends wherein the latching means is moveable between a first position (see Fig 4B) in which the primary and secondary levers are fastened together so as to function as a single lever and a second position (see Fig 4C) in which the primary lever is free to rotate relative to the secondary lever.

Re claim 2, the releasable latching means is moved from said first position to said second position by contact between part of the latching means and an adjacent part of the body structure of the motor vehicle (see Fig 3B).

Re claim 3, the secondary lever is attached at its upper end to a pivot rod (5) used to pivotally connect the secondary lever to the body structure of the motor vehicle.

Re claim 4, the latching means has an abutment surface (see Fig 4B) for engagement with the upper end of the primary lever and at least one aperture (18) to pivotally connect the latching means to the upper end of the secondary lever.

Re claim 5, the at least one aperture (18) in the latching means is arranged for engagement with the pivot rod so as to pivotally connect the latching means to the secondary lever.

Re claim 6, rotation of the latching means relative to the secondary lever from the first position to the second position moves the abutment surface out of engagement with

the primary lever so as to allow the primary lever to rotate relative to the secondary lever (see Figs 4A-4C).

Re claim 7, the at least one aperture is an elongate aperture (see Fig 4A).

Re claim 8, the movement from said first position to said second position comprises both rotation relative to the secondary lever and sliding movement of the latching means relative to the pivot pin (see Fig 4C).

Re claim 9, the latching means comprises a U-shaped member having two arms connected by a bridging portion having an inner surface forming the abutment surface, one arm having an aperture formed therein for engagement with the pivot rod on one side of the secondary lever and the other arm having an aperture formed therein for engagement with the pivot rod on an opposite side of the secondary lever so as to sandwich the primary and secondary levers between the two arms (see Fig 4A).

Re claim 10, the latching means is in its first position the upper end of the primary lever is interposed between the bridging portion of the U-shaped member and a longitudinal edge of the secondary lever (col. 3 lines 40-54).

Re claim 11, each of the apertures is an elongate aperture (see Fig 4A).

Re claim 12, each of the elongate apertures is arranged to extend substantially perpendicular to the abutment surface (see Fig 4C).

Re claim 13, each of the arms has a hand portion extending therefrom for selective abutment with an adjacent part of the body structure of the motor vehicle (see Fig 4C).

Re claim 14, one of the primary lever and the secondary lever is formed by a U-shaped channel member, which is sufficiently wide to be engaged over the other of the secondary lever and the primary lever (col. 3 lines 44-54).

Re claim 15, the secondary lever (2) is a member.

Re claim 16, the secondary lever is pivotally connected to the primary lever by a pivot pin (8) engaged with respective apertures in the primary and secondary levers.

Re claim 17, the secondary lever is adapted for connection to a device to be operated by the pedal lever assembly by means of an aperture (15) formed therein for co-operation with a pin used to connect the secondary lever to an input member of the device to be operated.

Re claim 18, the device to be operated is one of a brake servo, a brake hydraulic master cylinder, a clutch hydraulic master cylinder or an engine throttle control (col. 3 lines 55-61).

Re claim 23, a primary lever (1) adapted at a lower end for movement by an operator between a rest position and an activated position and having an upper end releasably attached to a pivot means (5) by a releasable latching means (13), the primary lever being adapted at a position between its upper and lower ends for

connection to a device (col. 3 lines 55-61) to be operated by the pedal lever assembly wherein the latching means is moveable between a first position (see Fig 4A) in which the primary lever is fastened to the pivot means so as to permit pivotal movement of the primary lever at its upper end about the pivot means and a second position (see Fig 4C) in which the primary lever is free to rotate about a position interposed between its upper and lower ends.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,916,330	Jacobson	(primary/secondary levers)
2001/0006010	Choi	(primary/secondary levers)
2001/0027696	Mizuma et al	(primary/secondary levers)
6,679,139	Faigle et al	(primary/secondary levers)


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (571) 272-7106. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6217. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3682

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Vicky A. Johnson  
Primary Examiner  
Art Unit 3682  
2/7/06